

PAY EQUITY

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, go Huskies. But let me speak about an issue that I think the Huskies care about as well and that is pay equity, and I want to speak on an issue that is important to every woman and every family in America, one that has been ignored by this Chamber. Again, it is about pay equity. The issue of pay equity goes to the heart of what we fight for as working women. It is about ensuring that women who work every bit as hard as men and who play basketball every bit as hard as men are paid what they deserve. Fair pay is not a women's issue. It is a family issue.

Two-earner families are not the only norm. Particularly in this economy, they are a necessity. Robbing women of their due worth robs entire families. It undermines their dreams, and that is why closing the wage gap must be an integral part of any pro-working family agenda. Today women are short-changed, undervalued to the tune of 76 cents on the dollar. For African American women, they earn only 69 cents for every dollar that men earn. Hispanic women, that number plummets to 56 cents.

I am reintroducing today the Paycheck Fairness Act, and what it would do for the first time is put wage discrimination on the basis of gender on the same footing as wage discrimination occurring on the basis of race or ethnicity. I ask this House leadership to please bring this legislation to the floor so that we can pass it.

PROVIDING FOR CONSIDERATION OF H.R. 1036, PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 181 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 181

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1036) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee

amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

The SPEAKER pro tempore (Mr. GIBBONS). The gentlemen from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, I am exceedingly pleased today that we will consider legislation protecting interstate commerce in firearms and ammunition under the direction of a structured rule that allows for a total of five minority party amendments to be made in order.

Today, Mr. Speaker, I call up H. Res. 181 to do my part to ensure that businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, and sale to the public of firearms or ammunition are not and should not be negligent through lawsuit for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as they are designed and intended. The people who choose to bring these lawsuits want to hold manufacturers negligent for the criminal abuse of their products, but it is like suing the Louisville Slugger for harm caused by criminals using one of their famous products to unlawfully threaten or harm a third party and not for hitting baseballs, for which that product was intended.

It is my intention today to provide Members with information about this fair and balanced rule and also the underlying legislation that will be on the floor today. This underlying bill must be passed today if we are to beat back the forces who believe that responsible gun ownership is an oxymoron and those who are bent on destroying a citizen's right to firearms for lawful purposes. Lawsuits have been filed nationwide and are pending in our courts

today that seek to hold these businesses responsible on a negligence theory for the harm caused by criminals or unlawful use of firearms or ammunition by others, when the product functioned and was designed and was intended to perform and it did, once again, a dangerous and slippery proposition which the underlying bill will prevent.

Guns can be dangerous and deadly when criminals and others who unlawfully use them do so. But then again, so can automobiles, especially when they are used illegally, which I will never condone, and which the underlying bill does not condone or seek to excuse from negligent causes of action. In fact, under the provisions underlined in this bill, H.R. 1036, plaintiffs may still bring negligence causes of action for harm caused by the criminal or unlawful misuse of guns or ammunition.

The forces arrayed against this bill today believe that guns have no constructive purpose in American society and believe that all firearms are so inherently dangerous that no level of responsible caution and education could ever render them useful or enjoyable to a law-abiding citizen. It is on this most tenuous, dangerous, and shaky logic that the gun haters have mounted their present flank maneuvering on the second amendment in both our State and Federal courts through these negligence lawsuits. These hostile forces to the second amendment can only be repelled when every single American who believes in the right to keep and bear arms shall be firmly entrenched by passage of this underlying legislation.

□ 1030

I believe today that the House of Representatives is rightly and correctly again invoking its right to regulate interstate commerce in the name of protecting our citizens' constitutional rights, in this case, the constitutional right to keep and bear arms. Without it, the myriad lawsuits nationwide advancing a negligence theory for the harm caused by the criminal or unlawful use of firearms or ammunition by others, when the product is functioning as it was designed and intended to do, will form a very real threat, completely halting the movement of these lawful products in interstate commerce. In fact, this is the very intent, what this bill is all about. It is to stop the chilling effect that would stop the design, production, trade and ownership of legal firearms and ammunition in the United States by lawsuits.

Mr. Speaker, I want to wrap up what I have said today by stating that the interstate commerce clause thankfully gives us the power and the right to be here in the House today to protect the Second Amendment from these dangerous attempts by others who would

twist the common law to meet their goal of eroding its protections by flanking maneuvers in State and Federal courts.

I am proud of this legislation that we are on the floor to pass today.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend, the gentleman from Texas (Mr. SESSIONS), for yielding me this time.

Mr. Speaker, I rise today in strong opposition to the base bill, H.R. 1036. In my view, this is a cynical, political bill that like other so-called tort reform bills that the majority has brought to the floor this year, would protect and favor wealthy businesses and campaign contributors at the expense of those victimized by irresponsible conduct.

I advocate a decent society. My strong opposition to H.R. 1036 does not reflect a broad opposition to gun ownership. I own a gun. I am for sensible gun laws that do not take away the legal rights of individuals to have guns for recreational purposes and personal protection. Gun ownership can further American values, but H.R. 1036, instead, usurps them.

I said to someone earlier today that since I was a child I have had, family and others, BB guns to single shot .22 rifles, that are sports persons and are involved at some degree in having owned a gun. I have no family member that has ever caused a criminal problem because of a gun. That does not mean that my family is any better than anyone else's, and I believe that I would go to my grave fighting for the right of Americans' values, which include owning a gun.

But I cannot have anyone make sense for me how AK-47s can be sold on the open market at a gun show. Nobody can make that make sense to me, that anyone other than the military and law enforcement should be endowed to hold those guns in their possession. I see no reason for them.

The majority, encouraged by a forceful and wealthy industry, is pushing Congress to enact a disastrous bill to give gun makers and dealers extraordinary shelter from liability suits. I do not wish to prey on the misery of one family that has suffered immensely at the hands of a gun, but several Members in this body represent the area of Palm Beach County, four of us do, and in our constituency are people who suffered a few years ago, none more than Ms. Pamela Grunow, the widow of a schoolteacher killed by gun violence.

Pamela Grunow deserves to have her day in court, and I am appalled that some representatives of the people have the contempt to propose legislation that would deny her this right.

On May 26, 2000, a 13-year-old student, a young man named Nathaniel Brazil, shot and killed his language arts teacher, Barry Grunow, at Lake Worth Middle School, that is in my dis-

trict and the district of three other Members, two Republican and two Democrat.

The gun used to kill Mr. Grunow was a .25 caliber semiautomatic pistol, which is commonly known as a junk gun, or "Saturday night special." Such handguns have little or no sporting or self-defense use, and are disproportionately used by criminals and juveniles to commit murder and other violent offenses. Pamela Grunow is seeking to hold the distributor of this gun responsible for selling an unreasonably dangerous and defective product.

Under Florida law, a distributor or dealer who sells a defectively designed product can be held liable, just as the manufacturer can be held liable. But some congressional colleagues of mine have the audacity to challenge the federalist and legal systems of the United States. Their hubris is infinite. You do not know better than the State governments legislating on this issue or the judges listening to these lawsuits.

Pamela Grunow deserves her day in court. She may not win, but, under Florida law, she should have that opportunity to lose or win.

An identical bill was reported out of committee last October, but the majority leaders decided not to put the measure on the floor after a series of sniper attacks in the metropolitan Washington area. Those sniper attacks made even the bill's sponsors squeamish. But less than a year later, even before the suspects in that particular atrocious crime are prosecuted, the majority is pushing an identical antivictim bill to be enacted. Less than a year later, H.R. 1036 would bar legal action filed by victims of the sniper shootings against the gun dealer, where the sniper suspects, two federally prohibited purchasers, allegedly obtained their Bushmaster assault rifle.

At a time when America needs more corporate responsibility, Congress should not give one industry a free pass. Gun makers and dealers act as though their industry was being treated unfairly. That is absurd. The gun industry wants to receive special legal protection that no other industry in America enjoys. Gun makers and dealers want to be free from the accountability of their negligent or dangerous conduct, regardless of how many people they injure or cause to be killed.

I want to make this clear: Absent legal immunity, gun makers would simply be treated like any other industry. Pharmaceutical companies must design medicine bottles that are childproof. Car manufacturers must design automobiles that withstand crashes. But those in the majority party are prepared to exempt gun makers from the responsibility of designing their products to protect against misuse that is reasonably foreseeable.

Robert A. Ricker, former Executive Director and Director of Government Affairs of the American Shooting Sports Council and former Assistant

General Counsel for the NRA, recently revealed that the gun industry has long known its practices aid criminal access to guns, yet has done very little about it. In light of Mr. Ricker's declarations, it would be the height of irresponsibility for Congress to pass H.R. 1036.

America cannot afford for Congress to act irresponsibly on this issue. In 1999, firearm homicide was the number one cause of death for black men ages 15 to 34, as well as the leading cause of death for all black 15- to 24-year-olds. Former Surgeon General Satcher even saw fit to declare this an epidemic.

As a representative of the American people, I am sickened that those culpable of causing pain and devastation may be immunized from liability due to their political clout.

My dear colleagues, blood money is guiding this bill. Those supporting H.R. 1036 are pushing ill-conceived and reckless legislation through Congress, motivated by the wrong priorities.

This bill is not only a gift to the gun lobby, its timing, with floor consideration coming just a few weeks before the April 24, 2003, National Rifle Association's annual meeting, is particularly suspect. In my view, some politicians are more concerned about satisfying the priorities of contributors than in seeking justice under our American values.

The cold barrel of the gun industry is pushing on its victims' throats. The majority is proposing that Congress pull the trigger. H.R. 1036 will shoot down the fundamental right to a day in court, even retroactively. It is scandalous that this anti-American, antivictim, anti-American values, prointerest group bill is being brought to the People's House.

I oppose the bill.

I wish to end, Mr. Speaker, by saying what I said when I began: Let the NRA and all people who own guns know that one Congressperson stands here for their right to own their gun, so do not misunderstand my opposition to this scandalous bill that will do detriment to the fundamental premise of a person's right to sue someone that has caused foreseeable harm.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are continuing the debate today on the floor after we had an opportunity yesterday in the Committee on Rules to talk about this, and the bill is pretty straightforward. It says that a manufacturer of a gun, ammunition or other product that might be used, with the gun working as it was intended, we would hold them harmless; but if a person was illegally or unlawfully using these guns or obtaining these guns under some measure, that they would be held responsible.

The interesting part about this, and there are so many analogies that could be used, but it would be like an automobile, which kills millions of Americans every year. It would be like an automobile that was properly designed,

properly structured, properly placed upon the roadway, and there is not one parent or one person that I know of that has years of experience in using an automobile that would not say to an occupant or to someone who was going to use their car that this could be a dangerous product.

But if we use it properly, then we have no worry about it. But if the manufacturer of that product, the car, manufactured it, designed it or did something that they know they should not have done, and it has happened in the automobile industry, it has happened with side fuel tanks, it has happened with any other number of defective parts of that product, then they would be held liable.

Such is true today also if gun manufacturers do something that is inherently wrong with their product.

□ 1045

But what this bill says is, once that gun or ammunition, just like a car is designed properly, is sold legally and properly under the laws of this country, and if it is utilized properly, that they could not be held liable. Such is true with guns.

The bottom line is that what is true is that the Democrat Party chooses to take this up as an issue because they are antigun. That is what this is about. We see these forces every day. We see them on the street. We see them with the things that they do. This is another way to get in the way of the second amendment of the Constitution of the United States.

So the reasonable legislation that we propose today is one that says that if someone has a legally manufactured product that they obtained legally, and it is used properly within the laws of this country, that a gun manufacturer will be held harmless. It is as simple as it is. I think it makes sense. We support what we are doing here with this underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 30 seconds.

I want my friend from Texas to catch my voice as it thunders in his direction. I am not antigun. I am pro-sensible gun legislation, and I am in favor of American values that allow for people to own guns legally. And I do not believe any of my colleagues that are opposed to this legislation would argue that under the Constitution a person has a right to bear arms. But under that same aegis that gives us a system that has served us well these number of years, a person has a right to sue.

Mr. Speaker, I yield 4 minutes to my good friend, the gentleman from Massachusetts (Mr. MCGOVERN), who serves on the Committee on Rules with distinction.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I oppose this rule. I guess the most I can say about the rule

is that it is not as bad as it might have been, but it is not as good as it should have been. Five amendments were made in order. Eight Members were denied the opportunity to come to this floor and be able to speak their mind and offer their amendments. In the Committee on Rules yesterday many people who testified who had good amendments were denied the opportunity to come here today to be able to debate them. For the life of me, I cannot quite understand why. But having said that, Mr. Speaker, I want to say a few words about the underlying bill, because I think this is an awful bill.

This House is not considering this bill today because it is good policy, because it is not. And this House is not considering this bill today because it is the right thing to do, because it is not. No, Mr. Speaker, this body is considering this bill today, as my colleague from Florida pointed out, because the National Rifle Association is holding their annual convention at the end of April and the majority leadership in this Chamber feels compelled to prove to the pro-gun special interests that they will do whatever it takes, pass whatever legislation that they can come up with, no matter how bad it is, so they get an applause line at that convention. That includes bringing a bill like this to the floor, a bill that, in my opinion, is unconstitutional.

This bill not only absolves any gun manufacturer from any claim of negligence; it prevents any lawsuit, current or future, from being filed against any gun manufacturer. In other words, any lawsuit against any gun manufacturer currently being considered by the courts will be thrown out.

Mr. Speaker, on Christmas Eve, 1999, in my hometown of Worcester, Massachusetts, 26-year-old Danny Guzman was shot and killed. A week later, police recovered the 9 millimeter Kahr Arms handgun used to kill young Danny. Through ballistics, the police determined that the gun was one of several stolen from Kahr Arms by Kahr employees with criminal records, and Kahr Arms is in my district. According to the police, one of the employees had been hired by Kahr to work in its Worcester manufacturing facility, despite the fact that he had a long history of drug addiction, theft to support that addiction, alcohol abuse, and violence, including several assault and battery charges.

Police determined that the guns were stolen from Kahr even before the weapons had serial numbers stamped on them and then resold to criminals in exchange for money and drugs. In March 2000, police arrested Mark Cronin, who pled guilty to the gun thefts. The investigation also led to the arrest of Kahr employee Scott Anderson, a man with a criminal history who pled guilty to stealing from Kahr a pistol and a slide for another weapon.

Now, the company did not conduct any criminal or general background checks on employees. Kahr did not

even have any metal detectors or x-ray machines or security cameras or other similar devices to monitor the facility or to determine if employees were stealing; nor did they check employees at the end of their shifts. At the time, the company did not have security guards.

Now, Mr. Speaker, unlike diamonds stolen from a jewelry store or funds embezzled by an accountant, a gun stolen from the manufacturer can have lethal and deadly results, and the Guzman family found out the hard way.

Now, if this bill becomes law, gun manufacturers would be shielded from being held accountable for their own negligence, and the Guzman family's suit that they have filed would be dismissed.

Now, the NRA has dubbed this bill the Reckless Lawsuit Protection Act. I disagree. Reckless is hiring an employee with a rap sheet to work in a gun factory. Reckless is not locking up and keeping track of every single gun produced in that factory, and reckless is bringing this legislation to the floor.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

The previous speaker just hijacked the intent of this law, and he misled people who are listening in this body today. The fact of the matter is that any gun manufacturer who is negligent for their product by what they produce would be held responsible under this bill, and for any person to assume otherwise means they have not read the bill. They would be incapable of understanding, and they choose not to, they choose not to.

Mr. MCGOVERN. Mr. Speaker, will the gentleman yield?

Mr. SESSIONS. Mr. Speaker, the gentleman was allowed his opportunity to speak, and I am sure that the minority has lots of time left.

Mr. MCGOVERN. Mr. Speaker, the gentleman is mischaracterizing the bill and my statement.

Mr. SESSIONS. Mr. Speaker, I appreciate the Speaker's help. Regular order, please.

So, Mr. Speaker, what happens is that anyone who chooses to mislead those people that are in this body today, that they would not be held liable, is simply not true. That is not what this bill is about. The bill that we know and the underlying legislation makes perfect sense, and that is why we are here.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS), the original author of this bill. I, as an original co-sponsor, am pleased to have him.

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I thank my distinguished colleague for yielding me this time.

Let me just see if we can discuss this bill without sort of inflaming the emotions of people. It has been said on the

floor that it is not good policy. This is a policy that has been passed by 31 States. Thirty-one States have adopted this almost similar language. So I think if the people on this side or if there is anybody on the Republican side who decides they do not want to vote for this bill, please go back to your State legislatures and see if they passed this language. I will have a graph when we move to the debate on this bill, and I will show my colleagues that 31 States have already passed this same type of legislation.

So it is good policy, so good that the majority of the States in the United States have passed it. In fact, I say to my good colleague, the gentleman from Florida (Mr. HASTINGS), the State of Florida has also passed this bill. So in his comments, I appreciate what he says, that he is not for gun control, that he has a gun himself, so he could appreciate the fact that this Bill is good policy.

The second point I want to make is there is going to be a lot of attacks on the NRA this morning and this afternoon. I authored this bill in the Committee on Commerce; and it passed out of the subcommittee, out of the full committee, and also passed out of the subcommittee of the Committee on Judiciary and out of the full Committee on the Judiciary. That was in the 107th Congress. There is nothing about timing for bringing this Bill up on the floor because the NRA is having a convention at the end of this month. We have been trying to get this bill to the floor; and as many Members know, when we try and get a bill passed, we have to go around to our colleagues day after day and ask them to cosponsor it. I had about 235 cosponsors in the last Congress, and we were ready to vote on it. So it is not a case of timing for the NRA. It is just good policy, and I think the 31 States that have passed it have shown that it is good policy.

The other thing I would point out to my colleagues is the public is now aware how important it is to pass this type of legislation. I want to mention a couple of surveys taken recently of almost 1,100 adults by DecisionQuest, a jury-consulting firm. They found that 66.2 percent of American adults oppose these types of lawsuits. These are simply lawsuits that State and local municipalities are forcing on gun manufacturers simply because they do not like the product. They do not like the distribution of the weapon. So I say to my colleagues, we cannot start attacking a company because we do not like their distribution system or their design, because under the Constitution, one has the right under the commerce clause to manufacture and distribute.

So when people say this bill is unconstitutional, no, on the contrary, it is constitutional in the sense it is saying, allow people to legally manufacture and distribute products.

So only 19 percent of Americans oppose this type of legislation that protects manufacturers from nuisance lawsuits.

Then in April 1999, an ICR/Associated Press poll found that 70 percent of the respondents thought manufacturers should not be held liable to recoup hospital and police costs. In 1999, a Gallup poll found 61 percent of Americans are opposed to lawsuits to cover costs incurred because of gun violence. A May 1999 poll by Zogby International found 71 percent of Americans opposed allowing cities to sue gun manufacturers.

I can just take my colleagues up to the current day that the public is behind us on this. They want to say that there is too much litigation. These third-party cases where violence occurs is because of the third party and one cannot go after the manufacturer with deep pockets only because he is distributing the weapons or because of the person who sells it to him because there is negligence. Still, in fact, based upon that information, I can tell my colleagues this. The question is, does this bill protect unlicensed dealers, and the answer is simply no. The bill defines manufacturers and sellers only as licensed manufacturers, dealers, or importers of firearms or trade associations representing those persons. The only exception is for ammunition sellers who are not required to be licensed by the Federal Government.

The second question: Does the bill protect those who commit State crimes or engage in negligent conduct? Under the bill, manufacturers or sellers must operate entirely within Federal and State laws.

So the bill is not giving any exemption to them if they perform criminal or negligent acts. So basically, it is just saying, we are trying to prevent these nuisance suits.

Now, I will just conclude by giving my colleagues one example of a nuisance suit and that took place in Bridgeport, Connecticut. Superior Court Judge Robert McWeeney threw out the City of Bridgeport's suit. "The plaintiffs have no statutory common law basis to recoup their expenditures," he said. "They lack any statutory authorization to initiate such claims."

□ 1100

Those were his exact words. Yet, Bridgeport was using taxpayers' money to sue this gun manufacturer with frivolous lawsuits.

Basically, the judge said they seek to regulate firearms in a manner that is preempted by State law. In other words, they are taking the mere fact that they are involved with commerce, manufacturing a product and distributing it as a way to sue.

I can give case after case of examples where the judge has thrown out these nuisance lawsuits.

So between what the judges have said, what the States have said by passing legislation in 31 States, and what the public says, I think we have a very credible bill. I urge my colleagues to support the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 15 seconds to the gen-

tleman from Massachusetts (Mr. MCGOVERN) to respond to our colleague.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for yielding time to me.

I just want to make clear that under this bill, if any victim files a lawsuit based on the common law principle of negligence, it would be barred. So I would urge my colleague, the gentleman from Texas (Mr. SESSIONS) to read the bill to understand what the bill is doing. This bill is designed to protect gun manufacturers at any cost for whatever is filed against them, and I think this bill should be defeated.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 6 minutes to my very good friend, the gentleman from North Carolina (Mr. WATT), the ranking member of the relevant subcommittee of the Committee on the Judiciary.

Mr. WATT. Mr. Speaker, I thank the gentleman for yielding time to me.

I first want to associate myself with the remarks that the gentleman made so eloquently in his statement. I am sure that both of us throughout the course of the day will be subjected to a number of phone calls saying that we are antigun. I personally do not think that is what this debate is about or should be about. The debate is about the bill that is in front of us and what it does to legal rights of people that have been recognized throughout history.

I am sure that my staff in the office is prepared for the barrage of phone calls, but I hope we can keep this debate based on what is before us at this point.

I am going to reserve my comments about the bill itself to the general debate on the bill, but I did want to rise in opposition to the rule reported by the Committee on Rules on this bill.

Twelve Democratic amendments were timely submitted to the Committee on Rules. Of those 12, 10 were offered by members of the Committee on the Judiciary, and five of the 12 were made in order under this rule. I am the first to admit that that is a better record than the Committee on Rules has enjoyed throughout this Congress, and some people say I should be happy about that. But the process by which this bill came to the Committee on Rules and now comes to the floor leads me to be concerned that the rule does not do justice to us as Members or to the public.

The bill first came before the Subcommittee on Commercial and Administrative Law, on which I serve as the ranking member, one day before the full committee markup. There was no markup of the bill in the subcommittee, and the hearing was conducted at a disadvantage by the fact that two of the witnesses' statements arrived late, one coming the night before the hearing and one coming the morning of the hearing.

Under these circumstances, the full committee markup provided the sole

opportunity for all Members, not just Democrats and not just those with concerns about the bill but all Members of the Committee on the Judiciary, to speak to the merits and concerns, or even in support of the legislation.

But that never happened in the full committee, either. There was no deliberative process that brought this bill to the floor. There was no debate on what the various provisions of the bill mean. There was no opportunity to seek clarification, no opportunity to praise or explain, no opportunity to criticize or correct the bill. There was simply no process in the committee.

Now, we wonder, how did that happen? Well, during the markup of the bill while one of my amendments was pending and numerous other Democratic amendments were at the desk to be considered, the majority abruptly decided that they would call a 5-minute recess in the proceeding, and they went into the back room. As soon as we got through deliberating the one amendment that was being considered, then they moved the previous question on the amendment, on the bill, and all other amendments got cut off.

Mr. Speaker, the amendment that I was debating when they abruptly called this recess was the only amendment that was actually offered and considered throughout the process. One other amendment had been offered and withdrawn earlier, and debate was cut off.

I raise the question, if we have had no subcommittee process and we have had no full committee process, and if only five out of 12 amendments that people seek to offer on the floor will be considered, then when will this bill be considered? I raise the question, what are the supporters afraid of? Are they afraid to defend the bill? I am baffled by what this is all about.

Now, I said in committee that I was concerned that we were rushing through the markup to get the bill to the floor so that the bill could be reported out in advance of the National Rifle Association's convention. Now I am wondering whether we are rushing through the process on the floor. When is this bill going to be considered? I think that is a relevant question.

Now, the one amendment that I offered that was not made in order by the Committee on Rules would have had us have a debate about whether pending lawsuits, lawsuits that have already been filed by people who think that they were proceeding in good faith, maybe some of them were proceeding in good faith, but they were proceeding based on the law that existed at that time, those lawsuits would be wiped out by this bill.

I think that is unconstitutional. If it is not unconstitutional as an *ex post facto* law, then it is certainly unfair and it is obscene. We should not be going back saying to the courts of appeals, trial courts, to dismiss cases based on a statute that we are passing at this point.

Mr. Speaker, I think this bill needs to be considered, and I hope we will send it back to committee for that consideration.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Rules took a lot of time yesterday. We heard a lot of testimony. The gentleman is correct, he did come and approach the Committee on Rules, as well as other Members of this great body.

I think the Committee on Rules, through the leadership of the gentleman from California (Mr. DREIER), heard the testimony and, in fact, Mr. Speaker, made in order several amendments, five, and two from the gentleman from North Carolina (Mr. WATT). That gives him the ability today to have two amendments for a total of 40 minutes. Three others are allowed for a total of 60 minutes, 20 minutes each. I think that is pretty good. I think that does allow debate on the floor of this House, more than almost 2 hours of debate, to talk about these issues.

Best of all, they are going to get their own vote. They are going to get their vote that they asked for up on the board, and every single Member will be here, so they have a chance to tell their story. I think that this process, while it may not always work the way every single Member wants, the Committee on Rules did the right thing.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER) from the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Resolution 181 providing for the consideration of the Protection of Lawful Commerce in Arms Act of 2003. This is a fair but structured rule that provides for the consideration of a number of Democrat amendments submitted to the Committee on Rules yesterday afternoon. We have made in order two amendments submitted by the gentleman from North Carolina (Mr. WATT). We have made one each by the gentleman from Virginia (Mr. SCOTT), the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), and the gentleman from Massachusetts (Mr. MEEHAN).

The committee heard persuasive testimony and has worked to create an amendment process that is fair and as evenhanded as possible. It is unfortunate that this bill is on the floor at this time. It is unfortunate that this Congress has to sit down and construct a law to protect a legal industry from acting legally in every State in the Nation.

For those who want to just get rid of guns, do it the right way: Propose to put a repeal of the second amendment on the floor and vote it up or down. There was a reason that our Founding Fathers fashioned the second amendment. It was for people to be able to protect themselves, in some instances, from their government.

But instead of doing it the honest way, we pick around the edges. We have lawyers willing to sue gun manufacturers who acted legally because a crime was committed with a stolen gun, and we have friendly juries willing to hand over that money. This is nothing more or less than a ripping-off of the system by a bunch of greedy people, and I want to see us have this debate in the honest way: Put their repeal of the second amendment on the floor and let us vote it up or down.

We should not have to come here every time and defend legal industries. Fifteen percent of the crimes are committed with knives. Are we going to be forced to defend the cutlery industry? Eighty percent of the crimes involve alcohol. Will we be suing distillers next? We have a tort system, a court system that has run amok. It is unfortunate that we have to sit here on the floor and protect it.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield an additional 30 seconds to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I would just encourage my colleagues to make their own judgment. If we add up all of the debate time about this bill, there will be about 3 hours. We are talking about undoing a system of law that has existed throughout our history, and we are doing it with 3 hours' worth of debate. Members should make the judgment about whether that is reasonable.

Additionally, we are talking about doing it without consideration of any of the amendments, other than the five that were made in order, that were offered by people in this body who have or who represent the same number of people that the gentleman on the opposite side represents. Those amendments were not considered in committee and they will not be considered on the floor.

So I do not know what this process is all about. We have made a mockery of the process in committee, and now we are about to do the same thing on the floor.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman makes some points. They are that he felt that these amendments were denied through the process. But the way we operate here is that the Committee on Rules operates in the daylight. We come and tell people when they may file amendments. Either those amendments may or may not have ever seen the light of day in another committee.

This Speaker and this Committee on Rules chairman want to make sure that we are open for business, that we tell people when we will be there; that we have, in my opinion, an appropriate number of people who sit through the hearings, as I have done, as I did in this case again; and responsible people listen to the arguments and the debates about the merits of those things which they wish to have placed in order.

We then hear the deliberation, we hear the debate, and then we go back

and make a decision about it. Then there is a vote. The votes are in the open where everybody can see them happen.

Mr. Speaker, my chairman allows many times more debate than what I probably would think would be reasonable, but he does it. It is a fair and open process. We know what this bill is about. We know where there is disagreement. We know why we are doing this. It is the right thing to do.

Mr. Speaker, I reserve the balance of my time.

□ 1115

Mr. HASTINGS of Florida. Mr. Speaker, I have no further speakers. Does my friend from Texas (Mr. SESSIONS) have additional speakers?

Mr. SESSIONS. Mr. Speaker, I have one additional speaker. Mr. Speaker, what is the time remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. SESSIONS) has 9½ minutes remaining. The gentleman from Florida (Mr. HASTINGS) has 8¼ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am prepared to yield back after closing.

Mr. SESSIONS. Mr. Speaker, I will close after this speaker.

Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman from Texas for yielding me time. I probably will not take 5 minutes.

Mr. Speaker, this is an important bill. It seems to me, it seems very basic to me that an industry that manufacturers, distributes, imports and/or sells a legal product lawfully should not be held liable for criminal acts of a third party. If an individual sells a firearm following all the rules and regulations of firearms, sales including conducting backgrounds checks to ensure that the purchaser is eligible to own a firearm, and the purchaser who buys the firearm violates the law by surrendering that firearm to an individual who subsequently uses the gun to commit a crime, why should the law-abiding dealer be liable?

Laws are violated in that hypothetical, Mr. Speaker, it seems to me, when the purchaser shared his firearm or surrendered his firearm to a third party, not at the point of sale. In my opinion, that means that the liability should lie with those who violated the law and not with a manufacturer who made the firearm to standard, maybe 6 months earlier, or even with the dealer who sold the gun complying with existing law.

H.R. 1036 which, by the way, came out of our House Committee on the Judiciary, does nothing to exempt the firearm industry from liability if the industry acts negligently, if the industry produces or sells a defective product, or if a firearm is sold in violation of any State or Federal law. The bill simply protects the industry from un-

warranted and frivolous lawsuits. Once again, it is important to note that the firearm industry is heavily regulated, and I am not averse to that. I think it ought to be heavily regulated at both State and Federal levels.

This is not an industry that is operating willy-nilly, unchecked and unmonitored. Licensed firearm dealers are required to meet various regulations prior to the sale of a firearm. Furthermore, the industry itself is very actively involved in ensuring that dealers know and are enforcing current firearm laws. Firearm trade groups, Mr. Speaker, to my friend from Texas (Mr. SESSIONS) I would say, are responsible for publishing literature on gun safety, responding to questions about firearms, and the proper manner in which to store firearms, for example. The firearm industry also, I am told, sponsors seminars across the country for gun dealers and distributors to certify that all gun sales adhere to strict transaction requirements.

The bottom line, Mr. Speaker, it seems to me, is that firearms are legal products that are heavily regulated at the State and Federal level. It is my belief that a manufacturer, distributor, dealer, and/or importer of firearms who follows all laws of sale and marketing and does not act in any way negligently should not be held responsible for the criminal behavior of a third party.

I think this is a good piece of legislation, Mr. Speaker; and I urge my colleagues to support it. I thank the gentleman from Texas (Mr. SESSIONS) again for yielding me time.

Mr. HASTINGS of Florida. Mr. Speaker, I have had one additional speaker show up.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), my friend, who was a leader in the State senate in Maryland on this particular issue.

Mr. VAN HOLLEN. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I have not been in this body very long, but I have quickly learned that the titles we give bills often come out of "Alice in Wonderland." The title of this bill is "Protecting Commerce." The way I read this bill, it is protecting those gun dealers who are engaged in wrongdoing.

I am very disappointed that this bill is even on the floor. I had an amendment proposed that I took to the Committee on Rules the other day; and unfortunately, they did not approve it. I represent an area that was recently ravaged just last fall by a sniper. This body at that time was taking up this legislation and, in deference to the victims' families, took this legislation off the floor. But by taking this up today, we are adding insult to injury to the victims and the families of those victims. We are rubbing salt in their wounds because many of the families of those victims decided to go to court.

They went to court. They took their case to court against a gun dealer whose activities over many years had shown a pattern of negligence that could very well have contributed to the suffering in their families. And this legislation which was taken off the floor in deference to those victims will now deny them their fair day in court. They are not going to get a fair hearing. And I find this decision of this body to proceed on this to be an insult, not just to those families, but really to decency and justice in the United States.

I had an amendment that would have addressed an issue that was adopted in the middle of the night a couple of months ago as part of the 2003 omnibus appropriations bill. At that time we exempted the ATF from requirements that all other Federal agencies are subject to under the Freedom of Information Act to get the information collected with the ATF with respect to those gun dealers who are engaged actively in selling to the criminal market. Why do we want to hide that information from the American people? But we did this in the middle of the night.

And so I had an amendment proposed to reinstate the ability of the American people to have access to that information. The committee denied us that opportunity. I think we should have had a fair debate on that question. This bill protects gun dealers who are engaged in wrong doing. It is unfair to all those gun dealers and manufacturers out there who are playing by the rules. It is unfair to them because it taints them with the wrong-doing of a few. And what this bill does is give protection, not to those who are engaged in the fair dealing in guns. What this does is protect those who are engaged in wrong-doing, those who are engaged in selling mostly to the criminal market, and we have already provided them some additional protection by denying the American people access about who they are. And now they are further shielding them from the justice that American families and the victims are due in this great country. I am sorry we are carving out a special exception for these wrong-doers, and I urge the body to reject this legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am prepared to close if the gentleman from Texas (Mr. SESSIONS) is prepared to close.

Mr. SESSIONS. Mr. Speaker, I am prepared to close.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from Texas (Mr. SESSIONS), and I also thank my friend from Florida (Mr. STEARNS), who is still here, for reminding me that Florida has a law that is similar to this that I do not think ought to be preempted. But at the very same time, Florida under the aegis of a previous Attorney General did in fact sue gun manufacturers too. So we have been a leader on both fronts.

Mr. Speaker, let me say this in closing. The gentleman from Florida (Mr. STEARNS) and I live very close to Orlando. I was born and raised in Alta Mont Springs that is 10 miles north of Orlando. I will not be in Orlando when the National Rifle Association meets there 3 weeks from now. I will not be receiving contributions from some of their members, interestingly, I am sure that there are some of their members who agree with me.

Gun dealers and owners who illegally sell or use guns are subject to prosecution under Federal laws, as my friend from Texas pointed out at the Committee on Rules yesterday, such as Brady. That is not what we are talking about here today. Today we are talking about the civil damages these actions cause, the innocent victims of gun violence. This bill, in my opinion, would eviscerate this possibility; and I think in that regard that it is wrong.

Let me say that with my warm live hands I will protect the right of American citizens and American values to legally own guns. In that place where I was born in the halcyon days of segregation, be assured that almost every family member and everybody there had a gun, and I can assure you they needed them. And, therefore, when we talk about the right to bear arms, know that there were many of us that believe in that right. So the National Rifle Association should know that with these warm live hands I will defend their right to own a gun, but none of them can make sense of AK-47s being sold in the street. None of them can make sense of Saturday night specials that have caused devastating damage to this overall society, such that one Surgeon General declared an epidemic because of gun violence against our children and their community.

None of them can make sense for the gun manufacturers and gun dealers, who may be few, of being exempted from legislation that rightly ought be considered if it were not exempting certain people and giving them special conditions that so many on the majority side rail about all the time saying others are seeking special conditions. If car manufacturers have to meet standards that avoid liabilities, if drug manufacturers, and I can go on and on and on through the product liability phase of this discussion, then be assured gun manufacturers, if they do something that is foreseeably wrong, should be held to the same standards as everybody else.

Mr. Speaker, I urge this body to vote against this bill and for each one of them to use their warm live hands to protect American values.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the very end of the debate about a very, very important commonsense piece of legislation.

The amendments that were before the Committee on Rules would have

done a lot of things. I disagree with us having the Federal Government print a list of all the people who have a gun in this country. I think that is dangerous. I think that is dangerous precedent for us as consumers to think that we would purchase a product and then someone would print our name about a product that we buy. But that is what we were asked to do yesterday, and we denied them. We did allow the minority the chance to have its debate on five amendments. That is what is going to take place today.

This legislation is common sense. The process has been open and fair. The Committee on Rules was available yesterday. The Speaker, the gentleman from Illinois (Mr. HASTERT), and the gentleman from California (Mr. DREIER), the chairman, intentionally went out of their way to make sure that we would have a vigorous debate today because we think the light of day is the best disinfectant there is to fairness.

The gentleman from Florida (Mr. STEARNS), the original sponsor of this bill, the author of this bill, showed up on the floor and offered a hardy debate. We have had others that have done the same. So I think America is free. I think we are using this body for what it was intended, as a sharing of issues and ideas. And most of all I would like to applaud the gentleman from Wisconsin (Mr. SENSENBRENNER), who is the chairman of the Committee on the Judiciary. The gentleman has been to the Committee on Rules, placed himself available before each and every Member to answer questions. I think that the commonsense legislation that he brings forward at this time with respect to what we are going to do on floor debate is important and good.

□ 1130

Mr. Speaker, I would ask that Members would support this bill, this rule, and of course, all the underlying legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I oppose the Rule to H.R. 1036, The Protection of Lawful Commerce in Arms Act.

My opposition to the Rule to H.R. 1036, is based largely on my outrage at the disgrace that has occurred in the Mark-up and Amendment of this Bill.

The Amendment process at the Judiciary Committee Mark-up of H.R. 1036 was unfair, discourteous, and a complete departure from the accepted Committee procedures of debate. The Amendments offered by myself and my Democratic colleagues were never given the opportunity to be fully debated. The Mark-up was simply shut down by the Chairman while Amendments were at the table. The actions of the Chairman are not in the spirit of comity that both parties try to maintain in this Chamber. Every Amendment that is offered is entitled to the full consideration of the committee. Our Amendments to H.R. 1036 were not given that consideration.

Likewise, the Rules Committee has not given the Democratic Amendments full and fair consideration. The Rules Committee has picked and chosen a select few Amendments

offered by my Democratic colleagues and myself. The Democrats proposed a total of thirteen Amendments to H.R. 1036. The Rules Committee concluded that only five Amendments would be made in order. Neither of the two Amendments that I offered were made in order.

One of the Amendments that I offered exempted from the scope of the bill those lawsuits brought by or on behalf of minors who were injured or killed by negligently transferred guns. This is an Amendment to the bill designed to protect America's children from the unlawful transfers of firearms. As the Chair of the Congressional Children's Caucus, I believe that provisions that protect America's children should be included in every bill that shapes gun rights. However, my Amendment to H.R. 1036 protecting minor's rights to sue negligent gun sellers was shut out of the Judiciary Committee, and not made in order by the Rules Committee.

A second Amendment that I offered exempted from the scope of the bill lawsuits against the sellers of machine guns, semi-automatic assault weapons, and large capacity ammunition feeding devices. Congress has banned all of these weapons because they are inherently dangerous. Assault weapons are even more dangerous in the hands of criminals. However, under H.R. 1036, if a gun merchant negligently sells a banned gun and that gun is used to injure or kill, the plaintiff will have no cause of action against the seller.

All of the Amendments proposed by my Democratic colleagues and myself are provisions that protect American lives. They deserved more sincere consideration by both the Judiciary Committee and the Rules Committee. That consideration was not provided.

That, Mr. Chairman, is why I oppose the Rule to H.R. 1036 bill.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S.151, PROSECUTORIAL REMEDIES AND OTHER TOOLS TO END THE EXPLOITATION OF CHILDREN TODAY ACT OF 2003

Mr. SENSENBRENNER submitted the following conference report and statement on the Senate bill (S. 151) to amend title 18, United States Code, with respect to the sexual exploitation of children:

CONFERENCE REPORT (H. REPT. 108-66)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1151), to amend title 18, United States Code, with respect to the sexual exploitation of children, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following: